



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,526	10/26/2000	Dan Vassilovski	990301	6563

23696 7590 07/07/2003

Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

EXAMINER

GUBIOTTI, MATTHEW P

ART UNIT

PAPER NUMBER

2124

DATE MAILED: 07/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/698,526

Applicant(s)

VASSILOVSKI ET AL.

Examiner

Matthew Gubiotti

Art Unit

2124

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 2124

DETAILED ACTION

1. Claims 1-16 are pending in this action.

Arrangement of the Specification

2. The disclosure is objected to because of the following informalities: The specification is not in the proper format.

Appropriate correction is required.

3. As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

Art Unit: 2124

- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 112

4. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "authenticated software" in Line 2. There is insufficient antecedent basis for this limitation in the claim. The claim has been further treated below as reading "resident software".

Art Unit: 2124

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 2, 9, 10, 16 rejected under 35 U.S.C. 102(e) as being anticipated by Shaw (U.S. Pat. 6,381,741).

Claim 1

Shaw teaches a method for managing software configurations substantially as claimed (See Abstract) comprising:

Providing available software to a computer through an interface (fig.1, refs. 50 & 70; col.2, li.58-67);

Determining whether or not resident software on the computer is authenticated ("perform[ing] an integrity check on the application code"; col.3, li.40-58; fig.2, ref.130);

Loading the available software if the resident software has not been authenticated (col.4, li.3-5; fig.2, ref.150).

Art Unit: 2124

Claim 2

Shaw further teaches:

Determining whether the available software is authenticated (col.4, li.19-30) (See also col.5, li.34-41);

Rejecting the available software if said resident software is authenticated and said available software is not authenticated (col.3, li.66 to col.4, li.3; col.5, li.34-41);

Loading the available software if said resident software is authenticated and said available software is authenticated (col.3, li.58-65; fig.2, ref.120 & 150) (illustrating the loading and updating of software regardless of the authentication state of resident software resulting from a forced update);

Claim 6

Shaw further teaches the step of determining the authenticity of resident software by performing a direct authentication procedure (col.3, li.66 to col.4, li.5).

Claims 9, 10 and 16

These claims represent the apparatus performing the method disclosed in claims 1, 2 and 6, respectively. They are rejected for the same reasons as stated above, with the apparatus cited as follows (fig.1, ref.10; col.2, li.37 to col.3, li.12).

Art Unit: 2124

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw (U.S. Pat. 6,381,741) as applied to claim 1 above.

Claim 3

Shaw further teaches determining that resident software is authenticated if an authentication flag has not been set and unauthenticated if the flag has been set ("reset flag"; col.3, li.48-57) (See also col.3, li.45-47). The performance of a functionally equivalent action based on the state of a binary flag is independent of whether or not the flag is set or not set. At the time of the invention, it would have been obvious to one of ordinary skill in the art to invert the setting and clearing of flags to perform equivalent functionalities in a software management system.

Art Unit: 2124

Claims 4 and 5

Shaw further teaches the flag being set when the resident software is loaded (col.3, li.30-57) or set by a service technician ("user"; col.3, li.58-59).

9. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw as applied to claim 6 above, and further in view of the instant application.

Claims 7 and 8

Shaw teaches a method for the authentication of a resident software to determine a course of action (col.3, li.66 to col.4, li.5). Shaw further teaches a method for validating the available software utilizing conventional techniques, such as hashing tables (col.5, li.34-62). Shaw does not expressly teach the authentication techniques as claimed. The instant application teaches the cyclic redundancy check (CRC) and secure hashing algorithms (SHA) as known methods in the art for authenticating software on a computing device (Specification, p.5, ¶ 3).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of the instant application into the method of Shaw. The modification would have been obvious because one of ordinary

Art Unit: 2124

skill would have been motivated to perform well-known authentication techniques to determine when an update was necessary in order to improve the performance of a computing system.

Claims 11-13, 15 and 16

These claims represent the apparatus performing the method disclosed in claims 3-5, 7 and 8, respectively. They are rejected for the same reasons as stated above, with the apparatus cited as follows (fig.1, ref.10; col.2, li.37 to col.3, li.12).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew Gubiotti whose telephone number is (703) 305-8285. The examiner can normally be reached on M-F, 8-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703) 305-9662. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Art Unit: 2124

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

MPG

June 16, 2003

Kakali Chaki
KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100